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**PATENT APPLICATION**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the Application of

Mitsuhiro NAITO et al.

Group Art Unit: 3663

Application No.: 10/810,689

Examiner: R. MANCHO

Filed: March 29, 2004

Docket No.: 118407

For: NAVIGATION DEVICE AND COMMUNICATION METHOD

**RESPONSE TO RESTRICTION AND ELECTION OF SPECIES REQUIREMENT**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

In reply to the September 26, 2006 Restriction and Election of Species Requirement, Applicants provisionally elect Group II, claims 7-15 and 21, Species B, and Species C, with traverse. Applicants respectfully submit that claim 16 is a linking claim. All of pending claims 1-4 and 6-21 read on elected Species B and all of pending claims 1-4 and 6-21 are generic to Species A and B. Furthermore, all of pending claims 1-4 and 6-21 read on elected Species C and all of pending claims 1-4 and 6-21 are generic to Species C and D.

Applicants respectfully assert that the Requirement is improper for at least the following reasons.

Initially, Applicants respectfully point out that claim 16 is a linking claim as defined by MPEP §809. Linking claims must be examined with, and thus are considered part of the invention elected. Applicants respectfully request that linking claim 16 and device claim 19, which depends therefrom, be examined with elected claims 7-15 and 21.

The Requirement alleges that restriction is proper between Groups I/ III and II under MPEP §806.05(e). In this respect, the Requirement simply asserts that the "apparatus as

claimed may be used to practice a search, rescue and entertainment." However, the apparatus/product claims of Groups I and III do not specifically recite an ability to practice a search, rescue and entertainment. Therefore, the Requirement must be alleging that the apparatus's/product's functionality of (1) starting up the network driver when an accessory signal causing the navigation device to be supplied with electric power is received from the vehicle, (2) communicating with the server to receive distributed data prior to initiating start-up of other device drivers, and (3) starting-up, after the distributed data is received from the server, the other device drivers, could be usable for searching, during some sort of rescue, or for entertainment. However, in such a case, the search, rescue, or entertainment, would not be materially different from the method of Group I, which explicitly covers functions (1)-(3) and whose functions are intended to facilitate searching and entertainment (see, e.g., paragraphs [0004], [0035], [0038], [0039], [0041], [0044], [0045], [0056], and [0057] where the distributed data is search data, music data, or other entertainment data).

Because the Requirement has failed to identify materially different methods, restriction between Groups I/ III and II is improper.

The Requirement alleges that restriction is proper between Groups I and III under MPEP §806.05(h). However, Group I are not limited to a method for using a storage medium and thus Groups I and II cannot reasonably be considered a product and process of using the product, as is required for MPEP §806.05(h) to apply.

Finally, the Requirement's identification of species is improper. In particular, neither the disclosure nor the claims disclose or recite that the communication portion is a wireless local area network device only (Species A) or that the communication portion is a removable cellular terminal only (Species B), especially since a removable cellular terminal may be considered a type of wireless local area network device.

Rather, the disclosure discloses exemplary embodiments in which the "wireless device 58 is, for example, a wireless LAN device, such as a wireless LAN card," (paragraph [0028], emphasis added) or the "removable wireless device 55 is, for example, a cellular terminal like a mobile phone device or a PHS phone device. However, it is possible to use any device which has a mobile communication function and which can be connected with the network 51 so as to allow communication" (paragraph [0101], emphasis added). Because Species A and Species B are not disclosed in the specification nor recited in the claims, they are improper.

Similarly, neither the disclosure nor the claims disclose or recite that the communication portion communicates directly with the server only (Species C) or that the communication portion communicates with an information terminal, the information terminal connected to the server through a network only (Species D). In particular, the fact that the communication portion can communicate directly with the server does not preclude communication with the server through an information terminal as well. The fact that the communication portion can communicate with the with the server through an information terminal does not preclude communication with the server directly as well. Because Species C and Species D are not disclosed in the specification nor recited in the claims, they are improper.

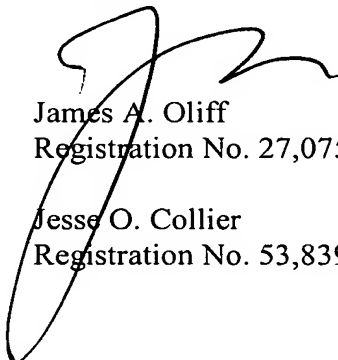
It is also respectfully submitted that the subject matter of all of the pending claims is sufficiently related that a thorough search for the subject matter of any one Group or species would encompass a search for the subject matter of the remaining Group or Species. The Requirement alleges that such a search would be seriously burdensome due to "a separate status in the art due to their different classification." However, Applicants respectfully submit that the claims cannot be separately classified. A thorough search for any one of the alleged Groups or Species should encompass each of classes 701/36, 455/557, 701/211, 701/213, and

701/24.<sup>1</sup> The Groups or Species cannot be divided amongst one or more of these classes and to do so would result in an incomplete search for that Group or Species. Furthermore, at least four of these classes have already been searched as evidenced by the Examiner's June 23, 2005 Search Notes.

Thus, it is respectfully submitted that the search and examination of the entire application could be made without serious burden. See MPEP §803 in which it is stated that "if the search and examination of an entire application can be made without serious burden, the examiner must examine it on the merits, even though it includes claims to independent or distinct inventions" (emphasis added). It is respectfully submitted that this policy should apply in the present application in order to avoid unnecessary delay and expense to Applicants and duplicative examination by the Patent Office.

In view of the foregoing, Applicants respectfully request withdrawal of the Restriction and Election of Species Requirement.

Respectfully submitted,



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<sup>1</sup> Although classes 707/103R and 455/406 are identified by the Requirement, these classes appear unrelated to the pending claims.